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Dan Kikinis

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EXAMINER

VAN HANDEL, MICHAEL P

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PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 09/854,339	Applicant(s) KIKINIS ET AL.	
	Examiner MICHAEL VAN HANDEL	Art Unit 2424	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 25 August 2010.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-3,5,8,9,12-14,16,19,20,23-25,27,30,31 and 35-52 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-3,5,8,9,12-14,16,19,20,23-25,27,30,31 and 35-52 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Response to Amendment

1. This action is responsive to an Amendment filed 8/25/2010. Claims **1-3, 5, 8, 9, 12-14, 16, 19, 20, 23-25, 27, 30, 31, 35-52** are pending. Claims **1, 12, 23-25, 27, 30, 31, 48, 50-52** are amended. Claims **4, 6, 7, 10, 11, 15, 17, 18, 21, 22, 26, 28, 29, 32-34** are canceled. The examiner hereby withdraws the rejection of claims **23-25, 27, 30, 31, and 48** under 35 USC 101 in light of the amendment.

Response to Arguments

2. Applicant's arguments regarding claims **1, 12, 23, 51, and 52**, filed 8/25/2010, have been fully considered, but they are not persuasive.

Regarding claims **1, 12, and 23**, the applicant argues that Hoarty fails to teach or suggest assigning a 3-D EPG world of the plurality of 3-D EPG worlds to one or more channels of the 3-D EPG, resulting in an assignment of the 3-D EPG world to the one or more channels, wherein the assignment is customizable and in response to receiving the selection of the channel, select the 3-D EPG world based on the channel and the assignment. Applicant specifically argues that the user selection of a 3-D view of Hoarty does not constitute assigning a 3-D EPG world to one or more channels of the 3-D EPG. The examiner respectfully disagrees. Hoarty discloses an interactive information system (col. 18, l. 49-50 & Figs. 33-41). Figures 33 and 34 show different channels used for different information services, here TV listings (channel 31) and classified advertisements (channel 37). Each of the two listings is shown in a particular 3-D

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world (Figs. 33, 34). In selecting channel 31, this 3-D world is “assigned” to channel 31 (Fig. 33). In selecting channel 37, this 3-D world is “assigned” to channel 37 (Fig. 34). Figures 35-41 show additional 3-D world views. For example, Figure 36 illustrates an assignment of a 3-D world view to a table of channels (Fig. 36). Figures 40 and 41 show assignment of additional 3-D worlds to channels (Figs. 40, 41). Through user selection in navigating the interactive services guide, the user “customizes” the assignment of a 3-D EPG world to one or more channels. Channel 31 is assigned the view of Figure 33. Channel 37 is assigned the view of Figure 34. All of the channels in the grid are assigned the view of Figure 36. Channels 7, 12, and 23 are assigned the view of Figure 40. Channel 12 is assigned the view of Figure 41. By navigating the 3-D EPG, these assignments are customized each time the user selects a different “world.” As such, the examiner maintains that Hoarty teaches assigning a 3-D EPG world of the plurality of 3-D EPG worlds to the one or more channels, wherein the assignment is customizable and in response to receiving the selection of the channel, select the 3-D EPG world based on the channel and the assignment, as currently claimed. Applicant argues that the layouts of Hoarty are hard-programmed into the system; however, there is nothing in the claim language distinguishing the claims from a hard-programmed system.

Regarding claim **51**, the applicant argues that Hoarty does not teach or suggest the claim language of claim 51. The examiner respectfully disagrees. As noted above, Hoarty discloses displaying information representing one or more candidate 3-D EPG worlds to a user, the 3-D EPG world being one of the candidate 3-D EPG worlds, wherein the candidate 3-D EPG worlds are candidates for assigning to one or more particular channels of the 3-D EPG (Figs. 33-41). Hoarty also discloses receiving information that represents a selection of the 3-D EPG world

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from the one or more candidate 3-D EPG worlds by the user, in that the different 3-D EPG worlds are navigated to through user selection. Hoarty further discloses that the assigning the 3-D EPG world includes assigning 3-D EPG world to the one or more particular channels of the 3-D EPG in response to receiving the information that represents the selection of the 3-D EPG world (Figs. 33-41). As such, the examiner maintains that Hoarty teaches the limitations of claim 51, as currently claimed.

Regarding claim **52**, the applicant argues that Hoarty does not disclose assigning, for a second time, the 3-D EPG world to one or more different channels of the 3-D EPG, wherein the assignment is modified. The examiner respectfully disagrees. Figures 33 and 34 illustrate a 3-D EPG. When the user selects channel 31, the EPG world is assigned to channel 31 (Fig. 33). When the user selects channel 37, the EPG world is assigned to channel 37 (Fig. 34). As such, the examiner maintains that Hoarty teaches the limitations of claim 52, as currently claimed.

Claim Rejections - 35 USC § 112

3. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

4. Claim **52** is rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter, which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention.

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Referring to claim **52**, the examiner fails to find support in Applicant's specification for the limitation "assigning, for a second time, the 3-D EPG world to one or more different channels of the 3-D EPG, wherein the assignment is modified." Paragraph 32 of the published version of Applicant's specification states that there may be a dynamic relationship between selection by the user of a specific content and the selection of a specific world (e.g., the selection of the sports channel by the viewer changes the world to a ballpark, the selection of a Disney channel changes the world to a Disney world, etc.)(paragraph 32 of published version of Applicant's specification US 2002/0059606). Paragraph 34 states that selection of a sports channel may bring forth a virtual world with the image of a large baseball and bat (paragraph 34 of US 2002/0059606). Paragraph 35 states that the user can customize which EPG world he wants based on user preferences, such as age. For example, CNN may make a deal saying that all CNN channels are to appear in the News World. Or the programmer may offer 2-3 different world choices and the viewer may choose among them (paragraph 35 of US 2002/0059606). None of these paragraphs state; however, that a 3-D EPG world can be assigned to one or more channels and then later assigned to one or more different channels.

Claim Rejections - 35 USC § 102

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

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6. Claims **1-3, 5, 8, 9, 12-14, 16, 19, 20, 23-25, 27, 30, 31, 36, 37, 39-48, 50-52** are rejected under 35 U.S.C. 102(b) as being anticipated by Hoarty (of record).

Referring to claims **1, 12, and 23**, Hoarty discloses a system/computer-implemented method/non-transitory machine-readable storage medium, comprising:

- a first unit (set top 13)(col. 5, l. 46-62 & Fig. 1) configured to generate an interactive three-dimensional (3-D) electronic programming guide (EPG), the 3-D EPG including a presentation of a virtual world having programming information and a layout (col. 19, l. 19-27 & Figs. 33-41);
- a database including a plurality of 3-D EPG worlds (Figs. 33-41), each 3-D EPG world includes a virtual world layout that provides the layout of the presented virtual world and each 3-D EPG world is assignable to the 3-D EPG (Figs. 33-41), wherein the first unit is further configured to assign a 3-D EPG world of the plurality of 3-D EPG worlds to one or more channels of the 3-D EPG, resulting in an assignment of the 3-D EPG world to the one or more channels (Figs. 33-41), wherein the assignment is customizable (through selection of channels and displays), receive a selection of a channel of the 3-D EPG (Figs. 33-41), in response to receiving the selection of the channel, select the 3-D EPG world based on the channel and the assignment (Figs. 33-41), and response to selecting the 3-D EPG world, modify the layout of the presented virtual world based on the virtual world layout of the 3-D EPG world (the user can navigate to different information services through the carousel display. The examiner interprets the carousel display and the information services menus, such as the program grid of Figure 36 to be 3-D EPG worlds)(Figs. 33-41).

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Referring to claims **2**, **14**, and **24**, Hoarty discloses the system/computer-implemented method/non-transitory machine-readable storage medium of claims 1, 13, and 23, respectively, wherein the system comprises at least one of a set-top box (col. 5, l. 50 & Fig. 1), a television (col. 8, l. 67 & col. 9, l. 1), and a VCR (col. 17, l. 11).

NOTE: The USPTO considers the applicant's "at least one of" language to be anticipated by any reference containing any of the subsequent corresponding elements.

Referring to claims **3** and **25**, Hoarty discloses the system/non-transitory machine-readable storage medium of claims 1 and 24, respectively, wherein the system includes a plurality of drivers, one of the drivers communicating with a separate unit to replenish programming information (col. 5, l. 46-62).

Referring to claims **5**, **16**, and **27**, Hoarty discloses the system/computer-implemented method/non-transitory machine-readable storage medium of claims 1, 12, and 23, respectively, wherein the database further includes at least one of a program event (Fig. 36), program schedule times (Fig. 36), program channel identification (Fig. 36), and program title (Fig. 36).

NOTE: The USPTO considers the applicant's "at least one of" language to be anticipated by any reference containing any of the subsequent corresponding elements.

Referring to claims **8**, **19**, and **31**, Hoarty discloses the system/computer-implemented method/non-transitory machine-readable storage medium of claims 1, 12, and 30, respectively, wherein the assignment is determined based on a user selection (col. 18, l. 63-67 & col. 19, l. 1-27).

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Referring to claims **9**, **20**, and **30**, Hoarty discloses the system/computer-implemented method/non-transitory machine-readable storage medium of claims 1, 12, and 23, respectively, wherein the virtual world layout of the 3-D EPG world is a matrix of rectangular boxes (Fig. 36).

Referring to claim **13**, Hoarty discloses the computer-implemented method of claim 12, wherein the database further includes a plurality of objects associated with current programming events (Fig. 36).

Referring to claims **36** and **39**, Hoarty discloses the system/computer-implemented method of claims 1 and 12, respectively, wherein the assignment of the 3-D EPG world is determined on the basis of user's preferences (user choice)(col. 18, l. 63-67 & col. 19, l. 1-18).

Referring to claims **37** and **40**, Hoarty discloses the system/computer-implemented method of claims 1 and 12, respectively, wherein the assignment of the 3-D EPG world is determined based on a programmer selection (user choice)(col. 18, l. 63-67 & col. 19, l. 1-18).

Referring to claim **41**, Hoarty discloses the system of claim 1, wherein the layout of the presented virtual world is comprised of environmental portions that do not include programming information (Figs. 35-41).

Referring to claim **42**, Hoarty discloses the system of claim 1, wherein the plurality of 3-D EPG worlds includes a first world having a first layout, and a second world, having a second layout that is different from the first layout (Figs. 35-41).

Referring to claims **43**, **47**, and **48**, Hoarty discloses the system/computer-implemented method/non-transitory machine-readable medium of claims 1, 12, and 23, respectively, wherein the database further includes localized interactive content, and the first unit is configured to

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generate the 3-D EPG based on localized interactive content (col. 5, l. 30-32; col. 18, l. 63-67; & col. 19, l. 1-18).

Referring to claim **44**, Hoarty discloses the system of claim 43, further including a user interface configured to allow a user to interact with the localized interactive content (Figs. 35-41).

Referring to claim **45**, Hoarty discloses the system of claim 43, wherein the database is configured to store localized interactive content in real-time (col. 8, l. 40-49).

Referring to claim **46**, Hoarty discloses the system of claim 1, wherein the database further includes electronic commerce objects, and the first unit is configured to generate the 3-D EPG based on electronic commerce objects (Fig. 35).

Referring to claim **50**, Hoarty discloses the system of claim 1, wherein the selection of the channel is received in response to an interaction with the 3-D EPG (user choice)(col. 18, l. 63-67 & col. 19, l. 1-18).

Referring to claim **51**, Hoarty discloses the system of claim 1, wherein the first unit is further configured to:

- display information representing one or more candidate 3-D EPG worlds to a user, the 3-D EPG world being one of the candidate 3-D EPG worlds (Figs. 35-41), wherein the candidate 3-D EPG worlds are candidates for assigning to one or more particular channels of the 3-D EPG (Figs. 35-41), and
- receive information that represents a selection of the 3-D EPG world from the one or more candidate 3-D EPG words by the user (user choice)(col. 18, l. 63-67 & col. 19, l. 1-18), wherein assigning the 3-D EPG world includes assigning 3-D EPG world to

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the one or more particular channels of the 3-D EPG in response to receiving the information that represents the selection of the 3-D EPG world (Figs. 35-41).

Referring to claim **52**, Hoarty discloses the system of claim 1, further comprising assigning for a second time, the 3-D EPG world to one or more different channels of the 3-D EPG, wherein the assignment is modified (Figs. 35-41).

Claim Rejections - 35 USC § 103

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

8. Claims **35, 38, 49** are rejected under 35 U.S.C. 103(a) as being unpatentable over Hoarty in view of Rowe et al. (of record).

Referring to claims **35, 38, and 49**, Hoarty discloses the system/computer-implemented method of claims 1, 12, and 36, respectively. Hoarty further discloses allowing a user to search TV programming by subject (Fig. 37). Hoarty does not specifically disclose that the assignment of the 3-D EPG world is determined on the basis of a user's age. Rowe et al. discloses searching television programming by children's content (col. 11, l. 22). It would have been obvious to one of ordinary skill in the art at the time that the invention was made to modify the TV subject searching of Hoarty to include searching by children's content, such as that taught by Rowe et al. in order to simplify the process of selecting programs of interest for each audience member (Rowe et al. col. 2, l. 14-16).

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to MICHAEL VAN HANDEL whose telephone number is (571)272-5968. The examiner can normally be reached on 8:00am-5:30pm Mon.-Fri..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Chris Kelley can be reached on 571-272-7331. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Michael Van Handel/
Primary Examiner, Art Unit 2424

11/07/2010